

AMENDED IN ASSEMBLY JUNE 2, 2003

AMENDED IN ASSEMBLY APRIL 22, 2003

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

ASSEMBLY BILL

No. 1462

Introduced by Assembly Member Salinas

February 21, 2003

An act to amend Section 50517.5 of the Health and Safety Code, relating to farmworker housing.

LEGISLATIVE COUNSEL'S DIGEST

AB 1462, as amended, Salinas. Farmworker housing.

Existing law requires the Department of Housing and Community Development to make matching grants and loans from the Joe Serna, Jr. Farmworker Housing Grant Fund, for specified purposes, and authorizes matching grants and loans to be made from the fund for other purposes. With respect to the supervision of the grantees, the department is required to provide bilingual services and publications or require the grantees to do so, in order to implement the program.

This bill would require the department to instead provide linguistically appropriate services and publications or require the grantees to do so in order to implement the program. The bill would also authorize the department to waive ~~all or~~ a part of the matching fund requirement *for grant or loan requests of \$500,000 or less under specified conditions*.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

SECTION 1. Section 50517.5 of the Health and Safety Code is amended to read:

50517.5. (a) (1) The department shall establish the Joe Serna, Jr. Farmworker Housing Grant Program under which, subject to the availability of funds therefor, grants or loans, or both, shall be made to local public entities, nonprofit corporations, and limited partnerships, for the construction or rehabilitation of housing for agricultural employees and their families. Under this program, grants or loans, or both, may also be made for the cost of acquiring the land and any building thereon in connection with housing assisted pursuant to this section and for the construction and rehabilitation of related support facilities necessary to the housing. In its administration of this program, the department shall disburse grants or loans, or both, to the local public entities, nonprofit corporations, or limited partnerships or may, at the request of the local public entity, nonprofit corporation, or limited partnership that sponsors and supervises the rehabilitation or construction program, disburse grant funds to agricultural employees who are participants in a rehabilitation or construction program sponsored and supervised by the local public entity, nonprofit corporation, or limited partnership. No part of a grant or loan made pursuant to this section may be used for project organization or planning.

(2) Notwithstanding any other provision of this chapter, upon the request of a grantee, if funds are used in conjunction with low-income housing tax credits, the program also may loan funds to a grantee at no more than 3 percent simple interest. Principal and accumulated interest is due and payable upon completion of the term of the loan. For any loan made pursuant to this subdivision, the performance requirements of the lien shall remain in effect for a period of no less than the original term of the loan.

(3) The program shall be administered by the Director of Housing and Community Development and officers and employees of the department as he or she may designate.

(b) (1) The Joe Serna, Jr. Farmworker Housing Grant Fund is hereby created in the State Treasury. Notwithstanding Section 13340 of the Government Code, all money in the fund is continuously appropriated to the department for making grants or

1 loans, or both, pursuant to this section and Section 50517.10, for
2 purposes of Chapter 8.5 (commencing with Section 50710), and
3 for costs incurred by the department in administering these
4 programs.

5 (2) There shall be paid into the fund the following:

6 (A) Any moneys appropriated and made available by the
7 Legislature for purposes of the fund.

8 (B) Any moneys that the department receives in repayment or
9 return of grants or loans from the fund, including any interest
10 therefrom.

11 (C) Any other moneys that may be made available to the
12 department for the purposes of this chapter from any other source
13 or sources.

14 (D) All moneys appropriated to the department for the
15 purposes of Chapter 8.5 (commencing with Section 50710) and
16 any moneys received by the department from the occupants of
17 housing or shelter provided pursuant to Chapter 8.5 (commencing
18 with Section 50710). These moneys shall be separately accounted
19 for from the other moneys deposited in the fund.

20 (c) (1) Grants and loans made pursuant to this section shall be
21 matched by grantees with at least equal amounts of federal
22 moneys, other cash investments, or in-kind contributions.

23 ~~(2) The department may waive all or part of the matching fund~~
24 ~~requirement in this subdivision if the grantee demonstrates an~~
25 ~~inability to raise the funds.~~

26 *(2) For grant or loan requests of five hundred thousand dollars*
27 *(\$500,000) or less, the department may waive a part of the*
28 *matching fund requirement in this subdivision if the grantee*
29 *demonstrates an inability, as may be established by the department*
30 *in "Notices of Funding Availability," to secure adequate financing*
31 *from other sources.*

32 (d) With respect to the supervision of grantees, the department
33 shall do the following:

34 (1) Establish minimum capital reserves to be maintained by
35 grantees.

36 (2) Fix and alter from time to time a schedule of rents that may
37 be necessary to provide residents of housing assisted pursuant to
38 this section with affordable rents to the extent consistent with the
39 maintenance of the financial integrity of the housing project. No
40 grantee shall increase the rent on any unit constructed or

1 rehabilitated with the assistance of funds provided pursuant to this
2 section without the prior permission of the department, which shall
3 be given only if the grantee affirmatively demonstrates that the
4 increase is required to defray necessary operating costs or avoid
5 jeopardizing the fiscal integrity of the housing project.

6 (3) Determine standards for, and control selection by grantees
7 of, tenants and subsequent purchasers of housing constructed or
8 rehabilitated with the assistance of funds provided pursuant to this
9 section.

10 (4) (A) Require as a condition precedent to a grant or loan, or
11 both, of funds that the applicant have site control that is
12 satisfactory to the department; that the grantee be record owner in
13 fee of the assisted real property or provide other security that is
14 satisfactory to the department to ensure compliance with the
15 construction, financial, and program obligations; and that the
16 grantee shall have entered into a written agreement with the
17 department binding upon the grantee and successors in interest to
18 the grantee. The agreement shall include the conditions under
19 which the funds advanced may be repaid. The agreement shall
20 include provisions for a lien on the assisted real property in favor
21 of the State of California for the purpose of securing performance
22 of the agreement. The agreement shall also provide that the lien
23 shall endure until released by the Director of Housing and
24 Community Development.

25 (B) In the event that funds granted or loaned pursuant to this
26 section constitute less than 25 percent of the total development cost
27 or value, whichever is applicable, of a project assisted under this
28 section, the department may adopt, by regulation, criteria for
29 determining the number of units in a project to which the
30 restrictions on occupancy contained in the agreement apply. In no
31 event may these regulations provide for the application of the
32 agreement to a percentage of units in a project that is less than the
33 percentage of total development costs that funds granted or loaned
34 pursuant to this section represent.

35 (C) Contemporaneously with the disbursement of the initial
36 funds to a grantee, the department shall cause to be recorded, in the
37 office of the county recorder of the county in which the assisted
38 real property is located, a notice of lien executed by the Director
39 of Housing and Community Development. The notice of lien shall
40 refer to the agreement required by this paragraph for which it



1 secures and it shall include a legal description of the assisted real
2 property that is subject to the lien. The notice of lien shall be
3 indexed by the recorder in the Grantor Index to the name of the
4 grantee and in the Grantee Index to the name of the State of
5 California, Department of Housing and Community
6 Development. The department shall adopt by regulation criteria
7 for the determination of the lien period. This regulation shall take
8 into account whether the property is held by multifamily rental,
9 single-family ownership, or cooperative ownership and whether it
10 is new construction or rehabilitative construction.

11 (D) Pursuant to regulations adopted by the department, the
12 department may execute and cause to be recorded in the office of
13 the recorder of the county in which a notice of lien has been
14 recorded, a subordination of the lien. The regulations adopted by
15 the department shall provide that any subordination of the lien
16 shall not jeopardize the security interest of the state and shall
17 further the interest of farmworker housing. The recitals contained
18 in the subordination shall be conclusive in favor of any bona fide
19 purchaser or lender relying thereon.

20 (5) Regulate the terms of occupancy agreements or resale
21 controls, to be used in housing assisted pursuant to this section.

22 (6) Provide linguistically appropriate services and
23 publications, or require grantees to do so, as necessary to
24 implement the purposes of this section.

25 (7) The agreement between the department and the grantee
26 shall provide, among other things, that both of the following occur:

27 (A) Upon the sale or conveyance of the real property, or any
28 part thereof, for use other than for agricultural employee
29 occupancy, the grantee or its successors shall, as a condition for the
30 release of the lien provided pursuant to paragraph (4), repay to the
31 fund the department's grant and loan funds.

32 (B) Upon the sale or conveyance of the real property or any part
33 thereof for continued agricultural employee occupancy, the
34 transferee shall assume the obligation of the transferor and the real
35 property shall be transferred to the new owner; provided that the
36 transferee agrees to abide by the agreement entered into between
37 the transferor and the department and that the new owner takes the
38 property subject to the lien provided pursuant to paragraph (4),
39 except that this lien shall, at the time of the transfer of the property
40 to the new owner, be extended for an additional lien period

determined by the department pursuant to paragraph (4), and the new owner shall not be credited with the lien period that had run from the time the transferor had acquired the property to the time of transfer to the new owner, unless the department determines that it is in the best interest of the state and consistent with the intent of this section to so credit the lien period to the new owner. However, the lien shall have priority as of the recording date of the lien for the original grantee, pursuant to paragraph (4).

(e) The department may do any of the following with respect to grantees:

(1) Through its agents or employees enter upon and inspect the lands, buildings, and equipment of a grantee, including books and records, at any time before, during, or after construction or rehabilitation of units assisted pursuant to this section. However, there shall be no entry or inspection of any unit that is occupied, whether or not any occupant is actually present, without the consent of the occupant.

(2) Supervise the operation and maintenance of any housing assisted pursuant to this section and order repairs as may be necessary to protect the public interest or the health, safety, or welfare of occupants of the housing.

(f) The department shall include in its annual report required by Section 50408, a current report of the Joe Serna, Jr. Farmworker Housing Grant Program. The report shall include, but need not be limited to, (1) the number of households assisted, (2) the average income of households assisted and the distribution of annual incomes among assisted households, (3) the rents paid by households assisted, (4) the number and amount of grants or loans, or both, made to each grantee in the preceding year, (5) the dollar value of funding derived from sources other than the state for each project receiving a grant or loan, or both, under this section, and an identification of each source, (6) recommendations, as needed, to improve operations of the program and respecting the desirability of extending its application to other groups in rural areas identified by the department as having special need for state housing assistance, and (7) the number of manufactured housing units assisted under this section.

(g) As used in this section:

(1) "Agricultural employee" has the same meaning as specified in subdivision (b) of Section 1140.4 of the Labor Code,

1 but also includes any person who works at a packing shed for a
2 labor contractor or other entity that contracts with an agricultural
3 employer in order to perform services in connection with
4 handling, drying, packing, or storing any agricultural commodity
5 in its raw or natural state, whether or not this person is
6 encompassed within the definition specified in subdivision (b) of
7 Section 1140.4 of the Labor Code.

8 (2) "Grantee" means the local public entity, nonprofit
9 corporation, or limited partnership that is awarded the grant or
10 loan, or both, under this section, and, at the request thereof, may
11 include an agricultural employee receiving direct payment of a
12 grant for rehabilitation under this section who occupies the
13 assisted housing both before and after the rehabilitation and may
14 include an agricultural employee receiving direct payment of a
15 grant for construction under this section who will occupy the
16 assisted housing and who is a participant in a rehabilitation or
17 construction program sponsored and supervised by a local public
18 entity, nonprofit corporation, or limited partnership.

19 (3) "Housing" may include, but is not necessarily limited to,
20 conventionally constructed units and manufactured housing.

21 (4) "Limited partnership" means a limited partnership where
22 all of the general partners are nonprofit mutual or public benefit
23 corporations.

24 (h) The department may provide the assistance offered
25 pursuant to this chapter in any area where there is a substantial
26 unmet need for farmworker housing.

